

HOUSE BILL 3825

By Stewart

AN ACT to amend Tennessee Code Annotated, Title 49, Chapter 10 and Title 49, Chapter 5, relative to background investigation requirements for teaching and child care positions.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 49-5-413(a)(1), is amended by inserting the language “and for the purpose of determining the person’s status on the department of health’s vulnerable persons registry under title 68, chapter 11, part 10, the state sex offender registry, the department of children’s services registry of persons who have been indicated as perpetrators of abuse or neglect of children, and the department of human services registry of persons who have been indicated as perpetrators of abuse or gross neglect of adults” between the citation to § 49-5-406(a)(1)(A) and the semicolon.

SECTION 2. Tennessee Code Annotated, Section 49-5-413(d), is amended by deleting subdivision (3) in its entirety and substituting the following:

(3)

(A) No employer, or employee of the employer to whom this subsection (d) applies, shall come in direct contact with school children or with children in a child care program, or enter the grounds of a school or child care center when children are present until a criminal history records check has been conducted, a state sex offender registry check has been conducted, a department of health vulnerable persons registry check under title 68, chapter 11, part 10 has been conducted, a department of children’s services check of persons who have been indicated as perpetrators of child abuse or neglect has been conducted, and a

department of human services check of persons indicated as perpetrators of abuse or gross neglect of adults has been conducted.

(B)

(i) No employer, or employee of the employer to whom this subsection (d) applies, shall come in direct contact with school children or children in a child care program or enter the grounds of a school or child care center when children are present, if the person has been placed on the state sex offender registry or department of health vulnerable persons registry, or has been indicated by the department of children's services or department of human services as a perpetrator of child abuse or neglect, or abuse or gross neglect of an adult, until the person has been reclassified as "not indicated" by the department that made the finding.

(ii) No employer, or employee of the employer, to whom this subsection (d) applies, shall come in direct contact with school children or to children in a child care program or enter the grounds of a school or child care center when children are present if a criminal records check indicates that the employer or employee has been charged with an offense that, if committed on or after July 1, 2007, is classified as a sexual offense or a violent sexual offense as defined in § 40-39-202, unless and until the individual has been adjudicated as not guilty, the charge has been dismissed, or the charge has been expunged.

(C)

(i) If at any time an employee is placed on the department of health's vulnerable persons registry or the state sex offender registry, or is indicated by the department of children's services or department of human services as a perpetrator of child abuse or neglect, or abuse or gross neglect of an adult, the employee shall notify the employer immediately upon receiving notice of such placement or indication.

(ii) If an employee is charged with an offense that, if committed on or after July 1, 2007, is a sexual offense or a violent sexual offense as defined in § 40-39-202, after the employer has conducted a criminal history records check on the employee, the employee shall notify the employer of the charge immediately upon receiving notice of the charge.

(iii) An employee commits a Class A misdemeanor, punishable by fine only, who knowingly fails to immediately disclose to the employer that the employee has been placed on the department of health vulnerable persons registry or the state sex offender registry, or has been indicated by the department of children's services or department of human services as a perpetrator of child abuse or neglect, or abuse or gross neglect of an adult as indicated in (d)(3)(C)(i), or charged with an offense specified in subdivision (d)(3)(C)(ii).

SECTION 3. Tennessee Code Annotated, Section 49-10-608, is deleted in its entirety and replaced with the following:

(a) The department of education, the state board of education, the department of health, the department of children's services, and the department of human services, in consultation, shall develop a procedure whereby the names of all potential employees of the department of education, any local board of education or any LEA shall be submitted to the department of health, department of children's services, and department of human services prior to employment to determine if the potential employees are by to be on the vulnerable persons registry or to have been indicated of child abuse or neglect, or abuse or gross neglect of an adult.

(b) The department of education, the state board of education, local boards of education and all LEAs shall not hire any individual who is on the sex offender registry,

department of health registry of vulnerable persons under title 68, chapter 11, part 10, or who has been indicated by the department of children's services or the department of human services as a perpetrator of child abuse or neglect, or abuse or gross neglect of an adult, until the individual has been reclassified as "not indicated" by the department that made the finding.

(c) Any information provided to the department of education, the state board of education, local boards of education, and LEAs pursuant to this part shall remain confidential and not be redisclosed unless such information is already public record.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.